

An Introduction to Iowa's Open Meetings and Public Records Laws for Public Officials and Employees

*By Kathleen Richardson, executive director, Iowa Freedom of Information Council
Updated Oct. 10, 2013*

I. Introduction

- A. The Iowa Freedom of Information Council: A coalition of print and broadcast journalists, educators, librarians, attorneys and other citizens concerned about openness in government.
- B. What this outline covers
 - 1. Brief introduction to public meetings and records laws
 - a. Key points about the Iowa "government in the sunshine" laws
 - b. What is a "government body"?
 - c. What is a "meeting" and "record"?
 - d. Common issues
 - e. Description of the Iowa Public Information Board
 - f. Suggested resources

II. Key points about the public meetings and records laws

- A. **Government meetings and records are presumed open.**
 - 1. It's the law.
 - a. "This chapter seeks to assure, through a requirement of open meetings of governmental bodies, that the basis and rationale of governmental decisions, as well as those decisions themselves, are easily accessible to the people.
Ambiguity in the construction of this chapter should be resolved in favor of openness." (*Iowa Code 21.1*)
 - b. "Every person shall have the right to examine and copy a public record and to publish or otherwise disseminate a public record or the information contained in a public record." (*Iowa Code 22.2*)
 - 2. Meetings can be closed and records kept confidential only if specifically allowed by law (for example, the open meetings or records law, some other section of the Iowa Code or federal law).
- B. **The laws are written for the benefit of the public.**
 - 1. They assure that government activities are accessible.
 - 2. They allow voters to know what their elected officials are doing.
 - 3. They are citizen-friendly.
- C. **The laws provide a good framework for managing public business.**
 - 1. Openness is in the interests of everyone.
 - 2. If officials follow the laws routinely they'll be better prepared to deal with public scrutiny when crises arise.
 - 3. Government agencies have a duty to inform members about the requirements of the law (*21.10*) and to delegate the responsibility for implementing the law (*22.1*).
 - 4. The notice and agenda provisions of the public meetings law (*21.4*) mean that meetings must be well-planned.
 - 5. The legal requirements for meeting minutes (*21.3*) mean that the government body has a good record of its activities.

6. Provisions of the open meetings law involving professional evaluation (21.5(1)(i)) help in personnel management.
7. The law protects the rights of public officials to gather for purely social purposes (21.2(2)).
 - a. Retreats by government officials are subject to requirements of the law. (*Olson to Boddicker*, 7-28-38)
8. The law allows a public agency to enact reasonable rules for conduct at its meetings (21.7) and for supervision of its records (22.3).
9. While the laws allow government officials discretion to close meetings or records under certain circumstances and provides procedures for doing so, neither law **requires** a government body to choose secrecy. (However, other sections of the Iowa Code might.)
10. While the laws provide mechanisms for citizens who feel a government agency has improperly denied access to a meeting or record, they also protect officials who rely upon legal advice (21.6 and 22.10).

III. Chapter 21: The Iowa Open Meetings Law

A. Who is covered by the law?

1. A government body as defined in *Ch. 21.2*, including . . .
 - a. A board, council, commission or other governing body expressly created by state statute or by executive order.
 - b. A local board, council, commission or other governmental unit exercising policy-making authority.
 - c. Generally, a “governmental body” is one created specifically by law or executive order and not one incorporated on a discretionary basis.
 - d. Committees created by the boards, councils, commissions, etc., covered by Chapter 21 also are covered if:
 1. They comprise or their meetings involve a majority of the members of the governmental body itself OR
 2. They are formally or directly created and exercise some policy- or decision-making authority.
 3. “Advisory bodies created by school boards and county boards of supervisors and other governmental agencies by executive order to develop and make recommendations on public policy issues” are subject to the provisions of the open meetings law. (*Tabor to Stilwill and Sarcone*, 93-11-5)
 4. However, the Iowa Supreme Court has said that policy-making “is more than recommending or advising what should be done. Policy-making is deciding with authority a course of action.” Mason v. Vision Iowa Board, 2005
 - e. Even if a committee or subcommittee does not come under the provisions of Chapter 21, it may still hold public sessions. **Closed meetings are not mandated.** Government-related units are encouraged to act as if they are covered by the law. (*Schantz and Hoskins to Hanson*, 79-5-4)
 - f. Even if a governmental body isn’t covered by the open meetings law, its documents might be public records under Chapter 22, the open records law.

B. What is a meeting?

1. A gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action on matters within the scope of the body's policy-making duties (21.2).
2. Meetings do **not** include a gathering of members for purely ministerial or social purposes (21.2) where there is no discussion of policy and no intent to avoid the requirements of the law. Ministerial functions are those that do not involve an exercise of discretion or judgment.

C. Common issues involving public meetings

1. What constitutes a sufficient "tentative agenda" and reasonable notice of public meetings?

- a. A government body shall give notice of the time, date, and place of each meeting and its tentative agenda, in a manner reasonably calculated to apprise the public of that information (22.4).
 1. Reasonable notice: advising news media, posting notice on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting or where the meeting will be held (21.4).
 2. Notice shall be given at least 24 hours in advance of the meeting unless for good cause the notice is impossible or impractical (21.4).
 3. Each meeting shall be held at a place reasonably accessible to the public and special access shall be granted to persons with disabilities (21.4).
 4. The notice requirements also apply to meetings that are recessed and then reconvened more than four hours later. No new notice is required if the meeting is reconvened within four hours; there is no change in the agenda; and the time, date and place of the reconvened meeting is announced in open session of the original meeting. (21.4)
- b. Barebones agenda information such as "approval of old minutes, old business, new business" would **not** be sufficient, nor would using the same agenda for meeting after meeting.
- c. Guidelines provided by the Iowa Supreme Court (KCOB/KLVN v. Jasper County Board of Supervisors, 1991, and Barrett v. Lode, 1999):
 1. The tentative agenda can be subject to change.
 2. The law allows discussion and action on *emergency* items, but if action can reasonably be deferred to a later meeting, it should be.
 3. The information on the agenda must be reasonably sufficient to alert interested people as to the subject matter to be considered.
 4. The agenda must specifically state any issues the board intends to discuss in closed session.

2. Who can request notification of a meeting and what must they be provided?

- a. A news agency that has filed a request with a governmental body must be provided notification of the date, time, place and tentative agenda of an upcoming meeting — for free. (*Cook to Menke*, 4-20-79)
- b. Journalists and citizens can obtain copies of any material prepared for discussion at a public meeting (*Stork to McDonald*, 81-8-2), but they might have to pay for the costs of copying the materials.

3. When can a governmental body legally close a meeting?

- a. Chapter 21 lists 12 situations in which a government body can legally close a meeting. (Again, the closing is discretionary in most instances: a body can elect not to close the meeting if openness is in the public interest.)
 1. Some such situations:
 - A. To conduct a hearing to suspend or expel a student.
 - B. To avoid disclosure of specific law enforcement matters which if disclosed would enable a law violator to avoid detection.
 - C. To evaluate the professional competency of an individual IF the person requests it AND closure is necessary to prevent needless and irreparable injury to that individual's reputation. (But the law does not require the government body to allow the person being discussed to attend the closed session.)
 - D. To discuss the purchase or sale of particular real estate, but only where premature disclosure could reasonably be expected to affect the price. The minutes and audio recording of the session shall be made public after the transaction is complete or dropped.
 - b. Other sections of the Iowa Code may permit a government agency to close a meeting OR exempt meetings from the requirements of the open meetings law. (For example, Ch. 279 exempts some meetings and records involving the termination of a teacher from the sunshine laws.)
4. **What is the procedure that a governmental body must follow to close a meeting?**
- a. Procedure found in Ch. 21.5:
 1. A governmental body may hold a closed session ONLY by affirmative public vote of either two-thirds of the members of the body OR all the members present at a meeting.
 2. The vote of each member and the reason for closing the meeting by reference to the specific exemption under the law shall be announced at open session and entered into the minutes.
 3. Officials shall not discuss any business during the closed session that does not directly relate to the specific reason for closing the session.
 4. Final action must be taken in open session, unless provided for elsewhere in the Code.
 5. The government body shall keep detailed minutes of the closed session, persons present and action occurring and shall tape record the session. The minutes and recording shall be sealed and are not public records.
5. **Can a governmental body take a secret ballot?**
- a. No. *Ch. 21.3* states that the minutes of a meeting shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public in open session.
6. **What about electronic communication between government officials?**
- a. If the majority of the members of a body are communicating online at the same time, that would constitute a meeting, as would a conference call when all members participate. In addition, any records produced by electronic communication, such as emails, would be public records under Chapter 22.
 1. Electronic meetings are allowed only when in-person meeting is impossible or impractical and the reasons are included in the minutes.

2. The notice and agenda provisions of Chapter 21 apply to electronic meetings as much as to in-person meetings.
 3. The public must have access to the meeting.
7. **What are the potential repercussions of violating the law?**
- a. The law provides for civil lawsuits (21.6).
 - b. A court can issue an injunction ordering a government body to comply, assess damages between \$100 and \$500, order payment of costs and attorney fees, remove repeat violators from office, and void action taken during an illegal meeting. If a member of a governmental body knowingly participated in a violation, damages are increased to \$1,000-2,500.
 - c. Ignorance of the law is not a defense, but damages will not be assessed against officials who voted against the violation, in good faith believed they were in compliance with the law, or relied upon the advice of an attorney. In addition, starting in July 2013, government officials who rely on advice from the Iowa Public Information Board will also be protected.

IV. **Chapter 22: The Iowa Public Records Law**

A. **Who is covered by the law?**

1. A government body as defined in *Ch. 22.2*, including . . .
 - a. The state, or any county, city, township, school corporation, political subdivision or any branch, department, board, bureau, commission, council, committee or officer.
 - b. The “lawful custodian” of a record is the government body currently in physical possession of the public record, unless the record is in the physical possession of persons outside the government, then the government body that owns the record is the custodian.
 - c. Each government body shall delegate to particular officials or employees the responsibility of implementing the law.

B. **What is a record?**

1. The legal definition is very broad (22.3): all records, documents, tape, or other information stored or preserved in any medium belonging to a government body.
2. Public records also include records related to the investment of public funds.
3. When a government entity is involved in a legal dispute, including an allegation that the entity violated a rule or statute, after the dispute is resolved, the government body must prepare a summary that indicates the identity of the parties involved, the nature of the dispute and the terms of the settlement. This summary is a public record. (22.13)
4. Beginning on July 1, 2013, a new subsection of Ch. 22.7 will allow records custodians to withhold “tentative, preliminary, draft, speculative, or research material, prior to its completion for the purpose for which it is intended.” However, this exception does not apply to public records that are actually submitted for use by government bodies or are that are used in the formulation, recommendation, adoption of government policy or action. (22.7(65), *effective July 1, 2013*)

C. **Common issues involving public records**

1. **Who can have access to public records?**
 - a. Every person has the right to examine, copy and publish all public records (22.2).
 1. The right to examine without charge during normal office hours.

2. The right to photograph or make copies.
2. **How should record requests be handled?**
 - a. Record requests do not have to be made in person; officials shall fulfill requests made in writing, by telephone or by electronic means. (22.3)
 - b. Examination and copying shall be done under the supervision of the record custodian (22.3); the custodian should not relinquish control of the records. (1982 Op. Att'y. Gen. 76)
 - c. The lawful custodian shall adopt reasonable rules to safeguard the records.
 - d. The custodian shall provide a suitable place for the work or move to a separate location, if necessary.
 - e. The custodian shall provide a reasonable number of copies.
3. **How much can a government body charge for copying the records?**
 - a. The lawful custodian may charge a reasonable fee for the services of the custodian and for the copies.
 - b. Fees should be applied uniformly.
 - c. Fulfillment of a request may be made contingent on payment of a fee and estimated expenses shall be communicated to the requestor.
 - d. Fees cannot exceed the actual cost of providing the service and cannot include the costs of ordinary expenses such as employment benefits, depreciation, maintenance, electricity or insurance associated with the administration of the office. (22.3)
4. **How much time does a custodian have to respond to a record request?**
 - a. Most requests are routine and will be handled immediately or as soon as practically possible.
 - b. However, a good faith delay is allowed to determine whether the record in question is a public record or confidential (22.8(4)).
 - c. A reasonable delay for this purpose ordinarily should not exceed 10 business days and cannot exceed 20 calendar days (22.8(4)).
 - d. Record custodians should work with requesters to ensure that the correct records are released in as timely a manner as possible.
5. **Which records are allowed to be kept confidential?**
 - a. Records listed in 22.7, including . . .
 1. Medical records.
 2. Trade secrets protected by law. (Trade secrets are defined in Iowa Code Chapter 550).
 3. The work product of an attorney related to litigation by or against a public body.
 4. Peace officers' investigative reports, except for date, time, specific location, and immediate facts and circumstances surrounding a crime.
 5. Appraisal information concerning the sale or purchase of property for public purposes prior to announcement of the project.
 6. Personal information in confidential personnel records of government employees.
 - A. In 2011, the Legislature amended Ch. 22.7(11) to require the following information to be made public:
 1. Name and detailed information about compensation of an employee, including any written agreement about terms of employment. This covers anything of value given to an employee, including pay, benefits, vacation, severance payments and retirement benefits.

2. Employment dates, positions held, educational background and previous employment.
3. The fact that the employee was discharged as the result of a disciplinary action.
7. In 2002, Legislature enacted several exemptions related to homeland security.
- b. Like the open meetings law, the public records law allows government officials discretion to release information if they deem it in the public interest.
 1. However, other sections of the Iowa Code and federal law contain provisions mandating confidentiality. Know your records and the laws relating to them.
6. **What are the potential repercussions for violating the law?**
 - a. The law provides for civil lawsuits (22.10).
 - b. A court can issue an injunction ordering a government body to comply, assess damages between \$100 and \$500, order payment of costs and attorneys fees, remove repeat violators from office.
 - c. Ignorance of the law is not a defense, but damages will not be assessed against officials who voted against the violation, refused to participate in the violation, engaged in efforts to resist the violation, or in good faith relied upon the advice of an attorney. Starting in July 2013, government officials who rely on advice from the Iowa Public Information Board will also be protected. If a member of a governmental body knowingly participated in a violation, damages increase to \$1,000-2,500.

V. **Chapter 23: The Iowa Public Information Board**

- A. Effective July 1, 2013, the Iowa Public Information Board provides an official, efficient and free legal resource for citizens and government officials with questions about Iowa open meetings and records laws, and for citizens with complaints about alleged violations of the laws. The board is also one of the few such agencies in the nation with the authority to not only advise but to enforce the state sunshine laws.
- B. **How are the board members chosen?**
 - a. The nine board members are appointed by the governor subject to confirmation by the Iowa Senate. No more than three members shall represent the media, and not more than three represent cities, counties or other local governments. The members serve staggered four-year terms, and the board must be balanced by political party and gender. The board appoints a chair from among its members, and it is authorized to hire at least one employee, an attorney who serves as executive director. The board is an independent agency.
- C. **What are the powers and duties of the board?**
 - a. The board is authorized by statute . . .
 1. To issue advice, or declaratory orders with the force of law, regarding the applicability of the open records and open meetings laws.
 2. To receive and investigate complaints alleging violations of the laws and seek resolution through informal assistance, mediation and settlement.
 3. If a complaint cannot be resolved informally, and the board has probable cause to believe the law has been violated, to prosecute the government body or official in a contested-case proceeding under the Administrative Procedures Act.

4. To issue subpoenas to investigate complaints and prosecute cases, and to issue orders with the force of law to require compliance with the sunshine laws.
 5. To offer training in Chapters 21 and 22 to government bodies, to disseminate information to the public, and to submit an annual report to the governor and Legislature, making recommendations relating to access to government information.
- D. **What are the limits of the board's jurisdiction?**
- a. The board does not have jurisdiction over the judicial or legislative branches, or over the governor and governor's office.
 - b. The board also is limited to addressing issues involving Chapters 21 and 22 of the Iowa Code, and complaints made within 60 days of the alleged violation of those laws.
- E. **What sort of protection is afforded to government officials or employees who rely on the legal advice of the board?**
- a. Declaratory orders issued by the board, determining the applicability of the open meetings or records law to specific fact situations, have the force of law. Amendments to both Chapter 21 and 22 that become effective July 1, 2013, provide protection to government officials who rely on written advice of the Public Information Board, the attorney general or the government body's attorney.
- F. **What sorts of penalties can the board levy for founded violations of the law?**
- a. The board can assess damages, void action taken in violation of the open meetings law, and require a government body or official to take any appropriate remedial action.
 - b. The board does not have the authority to unilaterally remove a person from office, but it may file an action to remove someone from office under Chapters 21 or 22, which include "two strikes and you're out" provisions that direct the court to order the removal of an official upon his or her second violation during a term.
- G. **Do I have to file a public meetings or records complaint with the Public Information Board instead of going to court? Or if I file a complaint with the board and am dissatisfied with the result, can I appeal?**
- a. Any person, the attorney general or county attorney seeking to enforce open meetings and records laws can bring the complaint before the board, or the individual can bring an action in state district court, as under current law. If more than one party simultaneously brings an action before the board and in court, the court shall stay the case pending resolution of the complaint by the board. A final board order is subject to judicial review.
- H. **How do I contact the Public Information Board?**
- a. Website ipib.iowa.gov; email IPIB@iowa.gov or phone 515-725-1781

VI. **Suggested Iowa resources**

- A. The attorney for the government body or government association
- B. The county attorney
- C. Iowa Office of Citizens' Aide/Ombudsman: 515-281-3592.

- D. Office of the Iowa Attorney General: 515-281-5165 or www.IowaAttorneyGeneral.org. The Attorney General's website also includes copies of the office's "Sunshine Advisories" on open meetings and records issues, and outlines of Chapters 21 and 22 with applicable case and AG's opinion citations.
- E. The Iowa Freedom of Information Council: Kathleen Richardson, executive director; 515-271-2295 or kathleen.richardson@drake.edu; www.ifoic.org
- F. Iowa League of Cities: 515-244-7282 or www.iowaleague.org
- G. Iowa State Association of Counties: 515-244-7181 or www.iowacounties.org
- H. Iowa Association of School Boards: 1-800-795-4272 or www.ia-sb.org
- I. Iowa judicial branch: www.judicial.state.ia.us

VII. **Other helpful resources**

- A. First Amendment Center at Vanderbilt University: www.firstamendmentcenter.org
- B. Reporters Committee for Freedom of the Press: www.rcfp.org
- C. National Freedom of Information Coalition: www.nfoic.org
- D. The Brechner Center for Freedom of Information at the University of Florida: brechner.org
- E. Electronic Privacy Information Center: www.epic.org
- F. Access Reports: www.accessreports.com

The following changes were signed into law in 2013. They will be incorporated into the Iowa Code when it is updated in late 2014 and early 2015.

Section 22.7(45) was amended to as follows:

45. The critical asset protection plan or any part of the plan prepared pursuant to section 29C.8 and any information held by the ~~department of~~ homeland security and emergency management ~~division~~ that was supplied to the ~~division~~ department by a public or private agency or organization and used in the development of the critical asset protection plan to include, but not be limited to, surveys, lists, maps, or photographs. However, the ~~administrator~~ director shall make the list available for examination by any person. A person wishing to examine the list of assets shall make a written request to the ~~administrator~~ director on a form approved by the ~~administrator~~ director. The list of assets may be viewed at the ~~division~~ department's offices during normal working hours. The list of assets shall not be copied in any manner. Communications and asset information not required by law, rule, or procedure that are provided to the ~~administrator~~ director by persons outside of government and for which the ~~administrator~~ director has signed a nondisclosure agreement are exempt from public disclosures. The ~~department of~~ homeland security and emergency management ~~division~~ may provide all or part of the critical asset plan to federal, state, or local governmental agencies which have emergency planning or response functions if the ~~administrator~~ director is satisfied that the need to know and intended use are reasonable. An agency receiving critical asset protection plan information from the ~~division~~ department shall not disseminate the information without prior approval of the ~~administrator~~ director.

Section 22.7(62) was amended to as follows:

62. Records of ~~maintained by the department of aging pertaining to clients served by the prevention of elder abuse, neglect, and exploitation program, or office of long-term care ombudsman that disclose the identity of a complainant, resident, tenant, or individual receiving services provided by the department of aging, or an area agency on aging, or the office of long-term care ombudsman, unless disclosure is otherwise allowed under section 231.42, subsection 12, paragraph "a".~~

Section 22.7 was amended to add the following subsection:

65. Personal information contained on electronic driver's license or nonoperator's identification card records that is provided by the licensee or card holder to the department of transportation for use by law enforcement, first responders, emergency medical service providers, and other medical personnel responding to or assisting with an emergency.

Section 22.7 was amended to add the following subsection:

65. Electronic mail addresses of individuals collected by state departments and agencies for the sole purpose of disseminating routine information and notices through electronic communications that are not prepared for a specific recipient.

Iowa Public Information Board: Establishment, Purpose and Operations

Presentation to the Legislative Services Agency

Oct. 17, 2013

*By Keith Luchtel, J.D., executive director, IPIB
and Kathleen Richardson, J.D., IPIB board member*

- I. Introduction
 - A. Background on creation of the Iowa Public Information Board
 - B. Setting up shop
 - C. Chapter 23: The board's powers and duties
 - D. Handling of complaints
 - E. Formal advisory opinions and declaratory orders
 - F. The IPIB as a resource
- II. Background
 - A. Legislative hearings in 2007 on open meetings, records issues
 - a. Main problem: Lack of enforcement
 - i. Ombudsman: No authority to compel compliance
 - ii. Attorney general, county attorneys: Conflicts of interest
 - B. Bipartisan interim committee produced bill that was introduced in 2008
 - a. Legislation was debated in 2008, 2009, 2010 and 2011, but failed to advance
 - C. SF 430 finally passed both House and Senate and was signed into law by Gov. Branstad, a supporter of the bill, in 2012
 - D. First board members appointed in July 2012
 - a. Nine board members appointed by governor subject to Senate confirmation
 - b. No more than three members shall represent media and no more than three represent local government
 - c. Staggered four-year terms; gender, political balance
 - d. Independent agency
 - e. At least one employee (executive director)
 - f. Initial board members —
 - i. Robert Andeweg, attorney and mayor of Urbandale
 - ii. Tony Gaughan, West Des Moines, Drake Law School professor

- iii. Jo Martin, Spirit Lake, vice president of Times-Citizen Communications
 - iv. Andy McKean, Anamosa, attorney and former legislator
 - v. Gary Mohr, Bettendorf, community college administrator
 - vi. Bill Monroe (chair), Johnston, retired executive director of the Iowa Newspaper Association
 - vii. Kathleen Richardson, Des Moines, attorney and executive secretary of the Iowa Freedom of Information Council
 - viii. Suzan Stewart, Sioux City, attorney for MidAmerican Energy Co.
 - ix. Peggy Weitzl, Carroll County treasurer
- E. "User-friendly approach"
 - a. Focus on outreach, service, mediation
 - b. Iowa FOI Council statewide survey in 2011: Public highly supportive of open government, seeks even more transparency, but has little knowledge of the laws
 - c. Board wants to increase understanding of open meetings and records laws by officials and citizens
 - d. "Meet and greet" tour by IPIB chair and executive director met with support from government attorneys and officials

III. Setting up shop

- A. Record time from appointment of board (July 2012) to opening office with rules in place (July 2013)
 - a. Groundwork done without appropriation: help from Attorney General's Office, Governor's Office, state employees
- B. First three months
 - a. Hired deputy director and administrative assistant
 - b. Created website – source of information and forms
 - c. Developed case management software
- B. What do we actually do?
 - a. Interpret law and enforce it – resource for citizens and government entities
 - b. Emphasis on informality and problem solving – cases come from telephone calls, emails and website forms
 - c. Outreach — public speaking
 - d. Training
 - e. Legislative recommendations

- IV. Chapter 23: The board's powers and duties
 - A. Iowa Public Information Board Act — enabling legislation enacted 2012 and amended in 2013
 - B. Processes and procedures drawn from Iowa Code Chapter 23 and Iowa Administrative Code Chapter 497
 - a. Extensive statutory enforcement authority
 - i. Election of remedies and stay orders (Sec. 23.5) — actions may continue to be brought under Chapters 21 and 22
 - b. Powers and duties (Sec. 23.6)
 - i. Adopt rules “to implement, enforce and interpret” open meetings law (Chapter 21) and open records law (Chapter 22)
 - ii. Issue declaratory orders or informal advice addressing Chapters 21 and 22 issues
 - iii. Receive and handle complaints based on Chapters 21 and 22
 - iv. Examine records and issue subpoenas
 - v. Issue orders enforcing Chapter 21 and Chapter 22, including applying penalties set forth in those chapters as well “imposing any other appropriate remedies calculated to declare, terminate, or remediate any violation of those chapters”
 - vi. Make training opportunities available to lawful custodians and government officials and employees
 - vii. Disseminate information to the public about their rights and how to exercise them
 - viii. Submit annual reports to governor and legislature
 - ix. Recommend legislation to governor and Legislature
- V. Handling of complaints (Iowa Administrative Code 497 — Chapter 2 and Sec. 23.7-23.10)
 - A. Initial determination of jurisdiction, legal sufficiency and potential merit (Sec. 23.8)
 - a. Jurisdiction does not extend to judicial or legislative branches of state government or the governor's office (Sec. 23.12)
 - b. Complaints must be filed within 60 days of occurrence or reasonable discovery (Sec. 23.7)

- c. Complaint is “accepted” or “dismissed” — decision delegated to executive director subject to review by board
- d. Statutory emphasis on achieving informal and expeditious resolution (Sec. 23.9)
- e. Process becomes Code Chapter 17A contested case process following failure of informal and expeditious resolution (Sec. 23.10)
- f. The board’s resolution if violation found (Sec. 23.10(b)):
 - i. Assess fines as per Sec. 21.6 or 22.10
 - ii. Void an action taken in violation of Chapter 21
 - iii. Require remedial action
 - iv. May not remove a person from office, but may institute a proceeding under Chapters 21 or 22 for removal
- g. Complaint experience thus far
 - i. Found that many can be handled informally
 - ii. Several formal complaints, two very complicated
 - ii. Complaints received concern all levels of government
 - iii. Excellent cooperation from government attorneys
 - iv. Small entities have problems understanding law
 - vi. Lots of unhappy people out there
 - vii. Web site forms used

VI. Formal opinions and declaratory orders

- A. Process for issuance of formal advisory opinions set forth in Iowa Administrative Code Rules 497-1.2 and 1.3
 - a. Anyone can request — form on website
 - b. Thirty-day period after issuance of advisory opinion for request to modify or reconsider advisory opinions
 - c. Safe harbor created by advisory opinions and informal routine opinions
 - d. Opinion experience thus far
 - i. Only one formally requested
 - ii. Several informal requests by phone and email
 - 1. Public officials and employees seeking help
 - 2. Citizens seeking help and enforcement
- B. Declaratory orders with the force of law may be issued pursuant to Iowa Administrative Code 497 — Chapter 3

- a. These rules adopt the uniform rules for the declaratory order process of Chapter 17A
- b. Declaratory Order experience this far
 - i. Only one Petition which is pending

VII. The IPIB as a resource

- A. Our approach to our duties and responsibilities starts from a belief that Iowa public officials want to obey the law
 - a. Most problems stem from a lack of knowledge of legal requirements
 - b. Board seeks to provide information and training that will enable public officials to perform their duties under Chapters 21 and 22
 - c. We are establishing and nurturing existing relationships among entities that already do training
 - d. Speaking engagements — any interested group, government or public — increase public understanding
 - e. Confidence that flows from education and training will result in better public service and citizen participation
- B. Questions?